



UNITED STATES MARINE CORPS
MARINE AIR GROUND TASK FORCE TRAINING COMMAND
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CCO 12771.2C
201
3 Jan 03

COMBAT CENTER ORDER 12771.2C

From: Commanding General
To: Distribution List

Subj: ADMINISTRATIVE GRIEVANCE PROCEDURE FOR CIVIL SERVICE EMPLOYEES

Ref: (a) 5 C.F.R. Part 771 (NOTAL)
(b) CPI 771 (NOTAL)

Encl: (1) Administrative Grievance System (DoD 1400.25-M)

1. Situation. To publish instructions and procedures for resolving grievances of managers, supervisors, and other employees excluded from a bargaining unit in accordance with the references. Enclosure (1), in conjunction with this Order, establishes the local instruction for this purpose.

2. Cancellation. CCO 12771.2B.

3. Mission. This Order establishes the exclusive procedures under which employees not covered by a negotiated grievance procedure and entitled to union representation, may seek redress of matters of personal concern and dissatisfaction. This excludes all non-appropriated fund employees and other employees excluded by enclosure (1) and public law.

4. Execution

a. Information. All employees initiating, appearing as witnesses, or acting as representatives in such actions are to be free from restraint, coercion, interference, discrimination, or reprisal. The processing of grievances is a priority matter, which must be given objective consideration and disposed of promptly in accordance with this Order.

b. Delegation of Authority

(1) The following individuals are delegated authority to act as deciding officials for grievances, which may arise with any covered individual or group under their cognizance except when they have been involved personally in the events giving rise to the grievance. This authorization may not be further delegated.

Command Chief of Staff
Director, Manpower
Director, Operations and Training
Director, Installations and Logistics
Director, Comptroller
Director, Religious Ministries
Commanding Officer, Marine Corps Communication-Electronics School

Commanding Officer, Naval Hospital
Commanding Officer, Branch Dental Clinic
Director, Communication and Data Directorate
Director, Marine Corps Community Services
Director, Human Resources

(2) The Commanding Officer, Headquarters Battalion, is delegated authority to act as deciding official for grievances, which may arise in organization units not under the cognizance of the officers named above. This authority may not be further delegated. The only exception to this rule is that an officer designated as "acting" in the absence of the incumbent for a period in excess of 30 days may make a substantive determination in administrative grievances.

(3) In cases in which the delegated deciding official has been personally involved in the events giving rise to the grievance, the Chief of Staff shall appoint by letter, within seven days of the presentation of the grievance, a noninvolved field grade officer or civilian employee in grade GS-11 and above, who is not a member of the bargaining unit, to act as deciding official for the specific grievance. The Chief of Staff shall likewise resolve any procedural conflicts internal to this Order, which may arise in a single case.

(4) The Human Resources Officer (HRO) will act as deciding official in grievances concerning employment or other personnel actions under the cognizance of the local HRO.

(5) The individual's delegated authority as specified above shall assume personal responsibility for the proper performance of the tasks set forth in enclosure (1). The Chief of Staff is the only officer who is delegated authority to render decisions reserved to the Commanding General in enclosure (1).

(6) Any grievance arising from an incident in which the Commanding General has been personally involved will be elevated to the Commandant of the Marine Corps for adjudication or his/her designee.

c. Role of the HRO.

(1) Provide advice, guidance and necessary assistance on the processing of grievances.

(2) Maintain all official case files/documents in accordance with regulations, providing copies to employees and their representatives as required.

5. Administration and Logistics. Distribution Statement A-1 directives issued by the Commanding General are distributed via e-mail. This Order can be viewed at <http://www.29palms.usmc.mil/dirs/manpower/adj/index.asp>.

6. Command and Signal

a. Signal. This Order is effective the date signed.

b. Command. This Order is applicable to the Marine Corps Total Force.



J. D. NICHOLS
Chief of Staff

DISTRIBUTION: A-1

ADMINISTRATIVE GRIEVANCE SYSTEM (DoD) 1400.25-M

- Reference: (a) 5, Code of Federal Regulations, Part 771, "Agency Administrative Grievance System" current edition
(b) DoD Directive, 1400.25, "DoD Civilian Personnel Management System,"
(c) Section 709(e) of Title 32, United States Code
(d) Section 1590 of Title 10, United States Code

1. Purpose. This subchapter established the Department of Defense (DoD) Administrative Grievance System (AGS) under reference (a). It status DoD AGS policy under reference (b). It also assigns responsibilities and prescribes requirements for the DoD AGS under which DoD activities can internally review employee disputes involving working conditions within the control of DoD management. The DoD AGS applies to all DoD Components except the National Security Agency and the Defense Intelligence Agency.

2. Policy

a. It is DoD policy under reference (b) that DoD employees shall be entitled to present grievances under the DoD AGS and have them considered expeditiously, fairly, and impartially, and resolved as quickly as possible. All persons involved in the dispute resolution process shall be free from restraint, interference, coercion, discrimination, or reprisal.

b. Alternate Dispute Resolution (ADR) techniques should be used to resolve grievances consistent with the requirements of this subchapter. ADR techniques include a board range of approaches for dealing with conflict and seeking solutions satisfactory to all parties. These techniques include, but are not limited to, problem solving, mediation, facilitation, conciliation, early-neutral evaluation, fact finding, settlement conferences, ombudsmen, peer review, and arbitration.

3. Responsibilities

a. The Deputy Assistant Secretary of Defense (Civilian Personnel Policy) (DASD) (CPP) shall issue AGS policies and requirements governing DoD civilian personnel. The DASD (CPP) shall monitor the implementation and effectiveness of such policies, develop dispute resolution models, and provide guidance on dispute resolution.

b. The Heads of the DoD Components shall ensure the AGS is implemented in their organizations.

c. Installation commanders, or equivalent management officials with delegated appointing authority, shall implement the AGS and shall develop and implement ADR techniques as appropriate under this subchapter.

d. Deciding officials shall make decisions concerning grievances consistent with the requirements in this subchapter. A deciding official must be assigned to an organizational level higher than any employee involved in the grievance or having a direct interest in the matter being grieved unless the deciding official is the Head of a DoD Component, installation, or activity.

ENCLOSURE (1)

4. Administrative Grievance System (AGS) Requirements

a. General. DoD employees are entitled under AGS to present grievances and to communicate with supervisors or managers and officials in their servicing Civilian Personnel Office. Employees may represent themselves, or be represented by someone of their choice, any representative may be denied if it would result in a conflict of interest, conflicts with mission priorities, or result in unreasonable costs. Employees and their representatives shall have full access to relevant information and shall be given copies of such information unless to do so would be unduly burdensome or contrary to law or regulation. Employees shall be permitted a reasonable amount of official duty time, if otherwise in a duty status at the employing activity, to present grievance and to communicate with management and personnel officials. Employees may also be given a reasonable amount of official time to prepare a grievance.

b. Coverage

(1) Employee coverage.

(a) The AGS covers current appropriated fund non-bargaining unit DoD employees. It also covers former DoD employees with respect to matters arising during their previous employment at the activity, provided that a remedy is available consistent with applicable law and regulation.

(b) The AGS covers bargaining unit employees when a matter covered by the AGS cannot be grieved under a negotiated grievance procedure (NGP), either because an NGP is not in effect at the relevant time, or because it does not cover the matter being grieved.

(c) The AGS does not cover reinstatement and transfer eligible who have applied for a position under a merit promotion program, non-citizens recruited overseas and appointed to overseas positions, or non-appropriated fund (NAF) employees.

(d) Subject matter coverage. Any employment matter may be grieved under the AGS except for the following:

1 The content of established agency regulations and policy.

2 Any matter covered by a negotiated grievance procedure or subject to formal review and adjudication by the Merit System Protection Board (MSPB), the Office of Personnel Management (OPM), the Federal Labor Regulation Authority (FLRA), or the Equal Employment Opportunity Commission (EEOC); or any matter that the resolution process within the DoD.

3 Non selection for promotion from a group of properly ranked and certified candidates, or failure to receive a noncompetitive promotion.

4 Preliminary notice of an action that, if effected, would be covered under the grievance system or excluded from coverage under (2), above.

5 The Substance of an employee's performance elements, standards, or work objectives.

ENCLOSURE (1)

6 Determinations concerning awards, additional step increases, recruitment or relocation bonuses, retention allowances, physician's comparability or additional pay allowances, supervisory differentials, critical position pay, or dual compensation waivers.

7 Any action taken under a voluntary, formal agreement entered into by an employee involving geographic relocation or return from an overseas assignment.

8 Termination of a probationer, return of an employee serving supervisory or managerial probation to a non-supervisory or non-managerial position, or separation or termination of an employee during a trial period.

9 For Senior Executive Service (SES) employees, performance evaluation and awards (including meritorious or distinguished executive rank award), reassignment following receipt of an unsatisfactory rating, return to another pay system during the 1-year period of probation or for less than fully successful executive performance or for failure to be rectified, conditional rectification, or termination during probation for unacceptable performance.

10 Termination or expiration of a time limited excepted appointment, a term or temporary appointment or promotion, or a Senior Executive Service limited emergency or limited term appointment, on the date specified as a condition of employment at the time the appointment or promotion was made.

11 The termination of a temporary term promotion at a time other than in subsection 4(b)(2)(j) above, provided the employee was informed in advance of the temporary nature of the appointment or promotion and the employee was returned to his or her former position from temporary promoted or to a different position of equivalent grade and pay.

12 SES or Senior Level pay rate changes.

13 A separation or termination action except as provided in subsection 4(c) below.

14 Any action taken under Title 32 U.S.C. 709(e) (reference (c)) involving National Guard Technicians; and

15 Any additional exclusions as requested by a DoD Component and approved by the DoD.

c. Time limits. When calculating under the AGS, the days of an action or receipt of a document is not counted. The last day of the time limit is counted unless it is a Saturday, a Sunday, a legal holiday, or a day on which the employee is not regularly scheduled to work. In those cases, the last day of the time limit shall to the next regularly scheduled workday. All time limits are counted in calendar days.

d. Grievance file. The activity shall establish and maintain a separate file for each written grievance filed under the AGS and retain it for 4 years in accordance with applicable laws, regulations, and records retention scheduled. The file will contain all documents or copies of documents related to the grievance.

ENCLOSURE (1)

e. Process. Subsection 4(g)(1)(2) below contain the basic mandatory processes of the DoD AGS. Installation Commanders and management officials with delegated appointing authority may tailor the AGS to meet local needs, but they must comply with policies and requirements in this subchapter and retain the rights, responsibilities, and time frames in the AGS. Continued use of ADR techniques throughout the AGS is encouraged.

f. Problem solving process. An employee may informally present a work-related problem to his or her immediate supervisor before filing a formal grievance. If the problem involves a matter or action directly involving that supervisor, and the employee has been unable to resolve the matter with that supervisor, the employee may present the matter to the next level supervisor, if any, within the DoD Component, installation, or activity. The problem must be presented within 15 days following the date of the act or even that the employee believes created the problem, or the date the employee became aware of (or reasonably should have become aware of) the act or event. The employee may present a matter of concern regarding a continuing practice or condition at any time. A supervisor must consider the employee's problem and attempt to resolve it within 15 days, and no later than 30 days, from the date the problem is first brought to the supervisor's attention, even though it may not be covered by the grievance process. Where appropriate, the use of a neutral (e.g., conciliator, facilitator, or mediator) is encouraged. If the employee presents the problem orally, the supervisor's determination may be oral or written. If the problem was not resolved, the supervisor shall inform the employee of the time limits for filing a grievance. If the supervisor believes the matter is not covered by the grievance process, the supervisor shall so inform the employee and advise the employee of the appropriate process, if any, for resolving the problem. The above time for resolving the problem may be extended by mutual agreement to accommodate resolution of the dispute.

g. Grievance Process

(1) An employee may file a formal, written grievance with the designated deciding official (or any official designated to accept grievances on behalf of the deciding official) when a problem is not resolved during the problem-solving process and invoke the grievance process. If the employee used the problem-solving process, the employee must file a grievance no later than 15 days the conclusion of that process. Where the employee does not use the problem-solving process but raises the matter initially as a grievance, the employee must present the grievance within 15 days following the date of the act or event that employee believes created the problem, or within 15 days following the days the employee became aware of (reasonably should have become aware of) the act or event. The employee may present a grievance regarding a continuing practice or condition at any time.

(2) An employee's grievance must be signed, dated, and contain a sufficiently detailed statement of the specific issue (s) and the specific, personal remedy sought; copies of any documents in the employee's possession related to the grievance; and, the name, address, and telephone number of the employee's representative, if any. The remedy must be personal to the employee and may not include a request for disciplinary or other action affecting another employee. An employee may not grieve the same matter raised in any other grievance, appeal, complaint, or other dispute resolution process.

(3) The deciding official shall determine whether to join similar or identical grievances; whether to require, and how to conduct an investigation; whether to allow the grievant's requested representative; and how much official time shall be granted to the employee and the employee's representative. The deciding official may also designate an individual to examine a grievance and, when authorized, to make recommendations concerning its disposition.

(4) The deciding official shall fully and fairly consider the grievance and issue a written decision with supporting rationale for the decision. The deciding official shall issue the decision as soon as possible but normally no later than 60 days from the filing of the grievance. The deciding official may extend time frames when warranted by special circumstances (e.g., when those involved are geographically dispersed or where a fact-finder is used in the process). However, a grievance decision should be rendered no more than 90 days from the filing of the grievance absent mutual agreement to extend this time limit to accommodate resolution of the dispute. If the deciding official fails to render a decision within 90 days absent such mutual agreement, the grievant may request review by the next higher management level, if any, within the DoD Component.

(5) When ever possible, the deciding official should rule on the merits of a grievance. However, the deciding official may cancel or temporarily suspend a grievance, or the appropriate portion of a grievance; if: the grievance requests such action; the grievant or grievance is excluded from coverage; the grievant fails to provide sufficient detail to identify clearly the matter being grieved or specify the personal relief requested; the grievant fails to comply with applicable time limits or procedural requirements or request actions be taken against another employee, or the grievant raises the same matter under another formal dispute resolution process.

(6) A deciding official's decision on the merits of the grievance is final and not subject to further review. However, an employee may request that an individual at the next higher management level within the DoD Component, if any, review a decision to cancel a grievance.

5. Civilian Intelligence Personnel Management System (CIPMS) Employees. Non-preference eligible CIPMS employees, employed under 10 U. s. C. 1590 (reference (d)), may grieve their removal, suspension, reduction in grade or pay, or furlough for 30 days or less, if they have completed one year of current continuous service in the same or similar position in the DoD under other than a temporary appointment of 2 years or less except for terminations for national security reasons under Section 1590 (e)(1) of reference (d). An activity's AGS should normally provide for an impartial hearing in removal cases involving such CIPMS employees. These hearings may be done on a reimbursable basis by the Defense Civilian Personnel Management Service's Office of Complaint Investigations.

ENCLOSURE (1)